



Indiana Department of Education

SUPPORTING STUDENT SUCCESS

MEMORANDUM

TO: Indiana State Board of Education
FROM: Becky Bowman, General Counsel
RE: LSA 09-57 Final Rule Adoption
DATE: November 4, 2009

The Office of Legal Affairs, on behalf of the Division of Exceptional Learners, requests that the State Board of Education adopt Final Rule 09-57.

Rule Summary

In December 2008, the US DOE adopted additional rules under the Individuals with Disabilities Education Act regarding the effect of a parent's revocation of consent for special education services. Indiana's proposed rule (09-57) mirrors the federal requirements. The rule requires a school to terminate the student's classification as a student with disability upon a parent's written revocation of consent, requires no evaluation after written parental revocation, and requires a school to consider any subsequent parental request for evaluation as an initial evaluation. The rule establishes that a school will not be deemed to have knowledge that a student is a student with a disability when the parent has revoked consent. Also, the rule establishes parental revocation procedures, requires a school to provide written notice prior to discontinuation of services subsequent to receipt of parent's revocation, and allows any party to be represented by an individual who is not an attorney.

Fiscal Impact

The Center for Evaluation & Education Policy (CEEP) evaluated the fiscal impact of the proposed rule and estimated a \$549,773 annual cost reduction. The majority of this savings (approximately \$478,938) will be realized from a decrease in the number of students with disabilities being reported by schools for state adjusted pupil count (APC) funds. When a parent revokes consent for services, the student is no longer considered a student with a disability and cannot be included in the annual child count for APC funds. CEEP estimates that annual child count will decline an average of 29.79 students with severe disabilities and 101.63 students with mild/moderate disabilities that would have otherwise been counted in the absence of revocation of consent for services. With APC funding levels at a flat rate of \$8,350 for students with severe disabilities and \$2,265 for students with mild/moderate disabilities, this results in an average total savings of approximately \$478,938 annually. The additional savings will be realized as schools will no longer be required to evaluate a student prior to termination of services that results from a parent's revocation of consent. In the absence of such revocation, the school must evaluate a student prior to terminating services. CEEP estimates that local personnel spend four hours per student when complying with evaluation requirements necessary to terminate services in the absence of a parent's revocation of consent. Considering average salaries of teachers and other certified staff across all corporation codes, along with additional printing costs for evaluation materials, the average cost savings in eliminating this evaluation requirement totals approximately \$70,835 annually.

Public Comment

During the public hearing conducted on October 9, 2009, the Indiana Department of Education received one written comment seeking clarification of the impact of this rule on Section 504 of the Rehabilitation Act of 1973. The Indiana Department of Education does not enforce Section 504 requirements; this is the responsibility of the US DOE Office for Civil Rights.

Final Rule

No revisions have been made to the proposed rule. Upon approval by the State Board, the Final Rule will be forwarded to the Attorney General and the Governor for review and approval in accordance with IC 4-22-2. Once approved by the Governor, the Final Rule will be published in the Indiana Register and will take effect 30 days from publication.